

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

JESSE L. LOSEY, :
Plaintiff, :
v. : CIVIL ACTION NO.: CV612-078
DANNIE THOMPSON, Warden; :
TIFFANY NAIL; LINDA BASS; :
and GWENDOLYN BROWN, :
Defendants. :

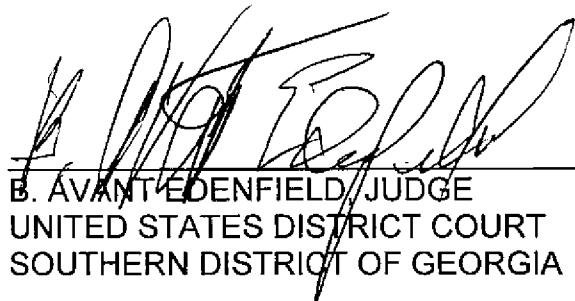
ORDER

After an independent and *de novo* review of the entire record, the undersigned concurs with the Magistrate Judge's Report and Recommendation, to which Objections have been filed. In his Objections, Plaintiff contends that a prison official need not have knowledge of a specific risk of harm to a particular inmate, only that a prison official have knowledge of a specific condition that places an inmate at risk to meet the deliberate indifference standard. Applying this contention to this case reveals that, in order for Defendant Thompson to be aware that Plaintiff was at risk of harm from the inmate who allegedly raped him, Defendant Thompson would have to had knowledge of these specific conditions: 1) inmate Reggie Whitehead had a contraband cell phone; and 2) Plaintiff, of his own volition, would enter inmate Whitehead's cell to use the contraband cell phone. To the extent Plaintiff may counter that the specific condition complained of was that Plaintiff should not have been housed at Smith State Prison due to his status as an attempted murderer rather than an actual murderer, such an

assertion is frivolous. In addition, Plaintiff contends he should be permitted to conduct discovery and amend his allegations. As Defendant Thompson's Motion to Dismiss was filed in response to Plaintiff's Second Amended Complaint, such a contention is unreasonable.

Plaintiff's Objections are without merit. The Magistrate Judge's Report and Recommendation is adopted as the opinion of the Court. Defendant Thompson's Motion to Dismiss Plaintiff's First Amended Complaint is **DISMISSED** as moot. Defendant Thompson's Motion to Dismiss Plaintiff's Second Amended Complaint is **GRANTED**. Plaintiff's claims against Defendant Thompson are **DISMISSED**.

SO ORDERED, this 24 day of Oct, 2012.



B. AVANT EDENFIELD, JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA